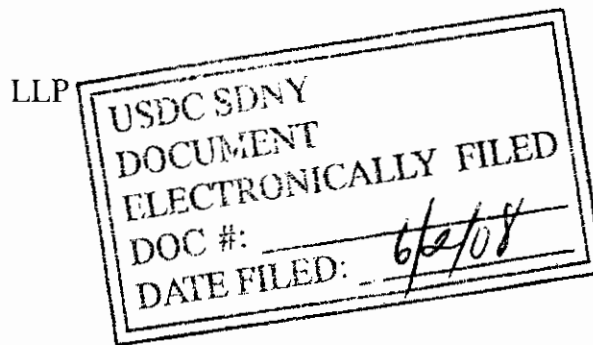


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May 29, 2008

VIA ECF AND UPS OVERNIGHT MAIL

The Honorable Loretta A. Preska
United States District Judge
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street, Room 1320
New York, New York 10007

**Re: Patricia Leo Holloman, et al. v. New York State Nurses Association
08 CV 00211 (LAP)**

Dear Judge Preska,

My firm represents the Defendant, New York State Nurses Association ("NYSNA"), in connection with the above-referenced matter. This letter is submitted in response to Plaintiffs' Surreply in Opposition to Defendant's Motion for Partial Dismissal in which they claim that Defendant (1) introduced new evidence, and (2) mischaracterized some of Plaintiffs' arguments. Defendant seeks permission to file a brief in response to Plaintiffs' Surreply and a proposed brief is enclosed herewith.

The document Plaintiffs claim is "new evidence" is the title page to NYSNA's Board of Directors Policies and Procedures. Plaintiffs cited to these Policies and Procedures throughout their Complaint and appended a portion thereof to their Memorandum of Law in Opposition to Defendant's Motion for Partial Dismissal, dated April 25, 2008, as Exhibit C. The thrust of Defendant's argument with respect to the Board of Directors Policies and Procedures, specifically with respect to Policy 2-6, is that it is an internal policy governing the rules of conduct for members of the Board. Therefore, this general information concerning the Board of Director's Policies and Procedures cannot be characterized as "new evidence." Notwithstanding the above, and upon further review, we have learned that although the Manual states otherwise, the Board of Directors' Policies and Procedures are posted, in their entirety, on NYSNA's website and therefore, Defendant agrees to withdraw Exhibit 1 and strike

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the corresponding text in its Memorandum of Law in Further Support of its Motion for Partial Dismissal (See Def. Reply Mem., p. 7, n.6).

As for Plaintiffs' assertion that Defendant mischaracterized its arguments, Plaintiffs are simply seeking another opportunity to advance their claims and rehash the arguments they made in their opposing papers. Plaintiffs' claim that Defendant's argument with respect to Article IX of the NYSNA's bylaws is "new" is disingenuous since Plaintiffs only first mentioned Article IX as a basis for its claim in their opposing papers. Litton Industries, Inc. v. Lehman Brothers Kuhn Loeb Inc., 767 F.Supp. 1220, 1235 (S.D.N.Y. 1991) ("reply papers may properly address new material issues raised in the opposition papers so as to avoid giving unfair advantage to the answering party who took it upon himself to argue those previously unforeseen issues"). Additionally, Plaintiffs attempt to introduce new and incomplete information into the record about the NYSNA 2005 Annual Convention which is not referred to anywhere in Plaintiffs' Complaint or previously relied upon by Plaintiffs in support of Count IV. Since this is new information, Defendant has not yet had an opportunity to address it.

In light of the above, Defendant respectfully requests an opportunity to respond to Plaintiffs' Surreply in Opposition to Defendant's Motion for Partial Dismissal by filing the enclosed brief. Defendant also respectfully requests oral argument on its Motion for Partial Dismissal.

Thank you.

*The Clerk of the Court shall
accept for docketing Defendants'
Response to Plaintiffs' Sur-reply.*

SO ORDERED

Loretta A. Freska
LORETTA A. FRESKA
UNITED STATES DISTRICT JUDGE

Respectfully,

Hope A. Pordy
Hope A. Pordy

Enclosure

May 30, 2008

cc (via email):

Betty Grdina, Esq.
David B. Goldstein, Esq.
Charles Both, Esq.